



**CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS**

ENTERED

**THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET**

**The following constitutes the ruling of the court and has the force and effect therein described.**

**Signed January 14, 2022**

Stacy H. C. George  
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<sup>1</sup> The Reorganized Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

**ORDER DENYING  
DEFENDANT'S SECOND MOTION FOR LEAVE TO AMEND ANSWER**

This matter having come before the Court on the *Defendant's Second Motion for Leave to Amend Answer and Brief in Support Thereof* [Docket No. 82] (the “Motion”) filed by Highland Capital Management Fund Advisors, L.P. (“HCMFA”); and this Court having considered (i) the Motion; (ii) *Defendant's Appendix in Support of Second Motion for Leave to Amend Answer* [Docket Nos. 83 and 87] (“Defendant's Appendix”)<sup>2</sup>; (iii) *Highland Capital Management, L.P.'s Response in Opposition to Defendant's Second Motion for Leave to Amend Answer* [Docket No. 107]; (iv) *Highland Capital Management, L.P.'s Memorandum of Law in Opposition to Defendant's Second Motion for Leave to Amend Answer* [Docket No. 108]; (v) the *Appendix in Support of Highland Capital Management, L.P.'s Opposition to Defendant's Second Motion for Leave to Amend Answer* [Docket No. 109] (“Highland's Appendix”); (vi) *Defendant's Reply in Support of Its Second Motion for Leave to Amend Answer* [Docket No. 112]; and (vii) the testimonial and documentary evidence admitted at, and the arguments made during, the January 10, 2022 hearing (the “Hearing”)<sup>3</sup> on the Motion, including assessing the credibility of Mr. Sauter; and after due deliberation on all of the foregoing, and for the reasons set forth in the record of the Hearing on the Motion, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is **DENIED**.

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<sup>2</sup> At the January 10, 2022 hearing on the Motion, the Court admitted into evidence HCMFA's rebuttal exhibit identified as exhibit no. HCMFA-R1 (“Exhibit HCMFA-R1”). Exhibit HCMFA-R1 appears at docket no. 118 and is deemed to be included in Defendant's Appendix for purposes of any appeal that may be taken of this Order.

<sup>3</sup> On January 6, 2022, Highland Capital Management, L.P. (“Highland”) filed a witness and exhibit list that (a) included as exhibits all documents that were included in Highland's Appendix, and (b) identified Dennis C. Sauter, Jr. (“Mr. Sauter”), as a witness to be examined at the Hearing. [Docket No. 111] (the “W&E List”). On January 10, 2022, Highland amended its witness and exhibit list to include one document (identified as Exhibit 31) not included in Highland's Appendix (“Exhibit 31”). [Docket No. 113]. During the Hearing, the Court admitted Exhibit 31 into evidence without objection, and Exhibit 31 deemed to be included in Highland's Appendix for purposes of any appeal that may be taken of this Order.

2. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

### END OF ORDER ###

United States Bankruptcy Court  
Northern District of Texas

Highland Capital Management, L.P.,  
Plaintiff  
Highland Capital Management Fund Advisor,  
Defendant

Adv. Proc. No. 21-03004-sgj

**CERTIFICATE OF NOTICE**

District/off: 0539-3

User: admin

Page 1 of 2

Date Rcvd: Jan 14, 2022

Form ID: pdf001

Total Noticed: 1

The following symbols are used throughout this certificate:

**Symbol**

**Definition**  
+ Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

**Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 16, 2022:**

NONE

**Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.**

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

| <b>Recip ID</b> | <b>Notice Type: Email Address</b>          | <b>Date/Time</b>     | <b>Recipient Name and Address</b>                                            |
|-----------------|--------------------------------------------|----------------------|------------------------------------------------------------------------------|
| ust             | + Email/Text: ustregion06.da.ecf@usdoj.gov | Jan 14 2022 21:11:00 | United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996 |

TOTAL: 1

**BYPASSED RECIPIENTS**

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

**NOTICE CERTIFICATION**

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Jan 16, 2022

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 14, 2022 at the address(es) listed below:

| <b>Name</b>          | <b>Email Address</b>                                                                                                                                           |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Davor Rukavina       | on behalf of Defendant Highland Capital Management Fund Advisors L.P. drukavina@munsch.com                                                                     |
| Julian Preston Vasek | on behalf of Defendant Highland Capital Management Fund Advisors L.P. jvasek@munsch.com                                                                        |
| Juliana Hoffman      | on behalf of Creditor Committee Official Committee of Unsecured Creditors jhoffman@sidley.com txfilingnotice@sidley.com;julianna-hoffman-8287@ecf.pacerpro.com |
| Melissa S. Hayward   | on behalf of Plaintiff Highland Capital Management L.P. MHayward@HaywardFirm.com, mholmes@HaywardFirm.com                                                      |

District/off: 0539-3

User: admin

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Date Rcvd: Jan 14, 2022

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Paige Holden Montgomery

on behalf of Creditor Committee Official Committee of Unsecured Creditors pmontgomery@sidley.com  
txefilingnotice@sidley.com;paige-montgomery-7756@ecf.pacerpro.com;crognes@sidley.com;ebromagen@sidley.com;efilingnotice@sidley.com

Zachery Z. Annable

on behalf of Plaintiff Highland Capital Management L.P. zannable@haywardfirm.com

TOTAL: 6